

09/631,511

REMARKS/ARGUMENTS

Claims 21-29, 31-39, 41, and 43 are pending. Claims 21-29, 31-39, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,111,863 to Rostoker, et al. (hereinafter "Rostoker"). These rejections and objections are respectfully traversed.

Rejections under 35 USC 103(a)

Rostoker fails to provide a prima facie basis for the rejection of the claims under 35 U.S.C. 103(a), because it fails to disclose each element of the claimed invention. In regards to claim 21, the Examiner admits that "Rostoker does not specifically state that the transmitter is designed as a transmission buffer," but offers what amounts to an inherency argument to support the rejection under 35 U.S.C. 103(a). In order to expedite prosecution, claim 21 has been amended to include "controller means for generating priority data," and "transmission buffer means for receiving the priority data and data from one or more of the channel buffers and storing the data from the channel buffers in a buffer, where the number of channel buffers to receive data from and the amount of data to be received from each channel buffer is determined by the priority data." As such, the Examiner's inherency-based argument (which will be addressed in regards to claims 31 and 37) necessarily fails, and the Examiner must identify in the cited art the corresponding structure disclosed in the specification and drawings of the pending application in order to support any rejection of claim 21. As previously noted in response to the prior office actions and as discussed in further detail below, none of the cited prior art discloses the controller means and transmission buffer means of claims 21 through 29.

In regards to claim 31, the Examiner relies on inherency as the basis for asserting that Rostoker discloses "determining the number of channel buffers to receive data from based on the priority data...; determining the amount of data to be received from each channel buffer by the priority data...; and storing the data from each selected channel buffer in a transmission buffer," citing to col. 4, lines 47-58, and col. 5, lines 23-35. But upon closer consideration, it appears that the Examiner has read limitations out of the claim in doing so, and also that the claimed method is not inherent in Rostoker.

Consider col. 4, lines 47-58 of Rostoker, which states that the "priority assignments can be changed. If, for example, the priority assignments of the video, audio and data signals are changed to 1, 0 and 0, the video signal is transmitted over the entire RF bandwidth until the

09/631,511

video buffer 23a is empty. After the video buffer 23a is emptied, the audio and data signals are transmitted. If the priority assignments of the audio and data signals are equal, each will occupy one-half of the RF bandwidth during transmission. If the video buffer 23a receives additional video, the transmission of the audio and data signals is stopped and the video signal is transmitted until the video buffer 23a is emptied. Then, transmission of the audio and data signals is resumed" (emphasis added). As such, the cited section fails to disclose:

1. "determining the number of channel buffers to receive data from based on the priority data" - The number of channels of Rostoker is *always three*. The priority data of Rostoker is only used to determine which buffer to select from first: "the video signal is transmitted over the entire RF bandwidth until the video buffer 23a is empty. After the video buffer 23a is emptied, the audio and data signals are transmitted" (emphasis added).

2. "determining the amount of data to be received from each channel buffer by the priority data" - Rostoker only discloses allocation of bandwidth. Although assigning equal priority to all three "channels" of Rostoker (audio, video, data) appears to a casual reader to assign equal bandwidth to the three channels, it does not accomplish that. Instead, data is transmitted based on the amount of data in the buffer. If there is no data in one buffer when all three have equal priority, then the other two will get "one-half of the RF bandwidth during transmission." In contrast, claim 31 states that the amount of data to be received from each channel buffer is determined by the priority data. As such, if there was no data in a buffer but that buffer was given exclusive priority, then data would not be taken from the other buffers, *contra* Rostoker. The invention of claim 31 does not determine whether a buffer is empty – if the buffer has null data, that null data is transmitted.

3. "and storing the data from each selected channel buffer in a transmission buffer" – Again, since Rostoker discloses that bandwidth allocation occurs based on the amount of data stored in a buffer, it is clear that there is no transmission buffer storing the data from each selected channel buffer. In the case where "the priority assignments of the video, audio and data signals are changed to 1, 0 and 0, the video signal is transmitted over the entire RF bandwidth until the video buffer 23a is empty. After the video buffer 23a is emptied, the audio and data signals are transmitted" (emphasis added). In contrast, the method of claim 31 would transmit a null video signal in the exemplary embodiment described in Rostoker, as that would be the

09/631,511

only signal stored in the video buffer, and audio and data signals would not be transmitted unless a change in priority was received.

Likewise, the section cited at col. 5, lines 28-34 fails to alter this analysis: "The transmitter 18 compresses the audio and video signals at rates that are initially preset. However, the rates can be adjusted by the controller 22 to reduce the amount of information being buffered. Following compression, audio, video and data signals are formatted, transported and multiplexed together with the transmission header (which includes the four bit request) to form a composite signal." However, as previously discussed in Rostoker, the allocation of audio, video and data signals are based on the amount of each type of signal that is stored in a buffer - even if audio was given highest priority and video was given lowest priority, the transmitted signal could end up being 100 percent video if no audio or data signal was buffered. Also, as previously discussed, Rostoker does not disclose "determining the number of channel buffers to receive data from based on the priority data" - the number is always three.

The same analysis could be applied to the rejection of claims 35 and 36, but rather than belabor that point, it is noted that the cited sections of Rostoker fail to disclose "generating priority data based on transmission channel bandwidth" or "generating priority data based on processor capacity of a wireless handset processor." Instead, a more direct explanation of how Rostoker generates priority data is disclosed at a section that was not cited by the Examiner: col. 4, line 66 through col. 5, line 7. "The priority assignments and, therefore, bandwidth allocation are changed in response to a request from another party on the communication link. If the other party desires a higher quality audio, it sends an appropriate request to the subscriber unit 12. The controller 22 responds by transmitting more of the audio signal and buffering more of the video and data signals until the fidelity of the transmitted audio meets the approval of the other party (i.e., when the other party stops making requests for higher audio fidelity)" (emphasis added). As is clear from consideration of the applicable section of Rostoker, priority is changed in response to a request from another party on the communication link, and not based on transmission channel bandwidth or processor capacity of a wireless handset processor.

Likewise, in regards to claim 37, Rostoker fails to disclose "determining an amount and a sequence of data from the audio data buffer, the video data buffer, and the control data buffer that is to be stored in a transmission buffer based on the priority data." The Examiner cites to the same sections of Rostoker as support for the rejection of claim 37 as for the rejection of claim

09/631,511

31, and as discussed, those sections do not disclose "determining an amount and a sequence of data from the audio data buffer, the video data buffer, and the control data buffer that is to be stored in a transmission buffer based on the priority data." Instead, data allocations change based on available data – if there is no audio signal, then the transmitted signal is 50% video signal and 50% data signal. This is because Rostoker does not disclose priority data that changes the amount and sequence of data from the audio data buffer, the video data buffer, and the control data buffer that is stored in the transmission buffer, but instead discloses priority data that changes the allocation of bandwidth for three predetermined signals - an audio signal, a video signal, and a data signal. It is also noted that Rostoker does not disclose "determining a number of channel buffers to receive data from based on the priority data;" as previously discussed, that number is always three in Rostoker.

In order to further emphasize the differences between Rostoker and the invention of claim 37, claim 42 has been cancelled without prejudice or disclaimer and new claim 43 is presented for examination that includes the "method of claim 37 wherein determining the amount and the sequence of data from the audio data buffer, the video data buffer, and the control data buffer that is to be stored in the transmission buffer based on the priority data further comprises allowing only null data from one of the audio data buffer, the video data buffer, or the control data buffer to be stored in the transmission buffer if the associated buffer is empty, priority is allocated only to the associated buffer, and data is present in the other buffers." This claim has been added only to emphasize the differences between Rostoker and the present invention, and not because any of the other pending claims would not be allowable without the limitation of claim 43.

09/631,511

CONCLUSION

In view of the foregoing remarks and for various other reasons readily apparent, Applicants submit that all of the claims now present are allowable, and withdrawal of the rejection and a Notice of Allowance are courteously solicited.

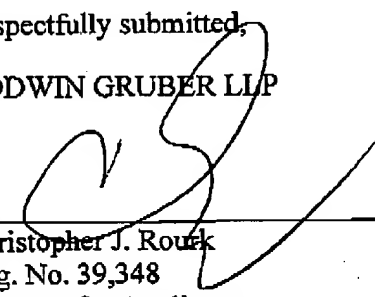
If any impediment to the allowance of the claims remains after consideration of this amendment, a telephone interview with the Examiner is hereby requested by the undersigned at (214) 939-8657 so that such issues may be resolved as expeditiously as possible.

No additional fee is believed to be due at this time. The Commissioner is hereby authorized to charge any fee or credit any refund to the deposit account of Godwin Gruber LLP, No. 500530.]

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Respectfully submitted,

GODWIN GRUBER LLP

By 
Christopher J. Rourke
Reg. No. 39,348
Attorney for Applicants

1201 Elm Street, Suite 1700
Dallas, TX 75270
Direct: 214-939-8657
Fax: 214-760-7332
Email: crourke@godwingruber.com